

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-028-02-1-5-00110  
**Petitioner:** Mercantile National IN TR 463<sup>1</sup>  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 008-34-22-0038-0006  
**Assessment Year:** 2002

The Indiana Board of Tax Review (the "Board") issues this determination in the above matter, and finds and concludes as follows:

### Procedural History

1. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held between the Petitioner and the Respondent. The Department of Local Government Finance (DLGF) determined the Petitioners' property tax assessment for the subject property should be \$24,100 and notified the Petitioner on March 31, 2004.
2. The Board issued a notice of hearing to the parties dated August 9, 2004.
3. A hearing was held on September 22, 2004, in Crown Point, Indiana before Special Master Peter Salvesson.

### Facts

4. The subject property is located at 8665 Ainsworth Road, Hobart, Indiana.
5. The subject property is 5.73 acres of vacant land classified residential excess acreage.
6. The Special Master did not conduct an on-site visit of the property.
  - a. Assessed Value of the subject property as determined by the DLGF:  
Land: \$24,100                      Improvements: \$0
  - b. Assessed Value requested by Petitioner:  
Land: \$7,000                      Improvements: \$0

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<sup>1</sup> It must be noted that the Notice of Final Assessment, the property record card, and correspondence from Mercantile identify this as Trust #3292.

7. The following persons were present and sworn in at the hearing:

For the Petitioner: William T. Modrak, Trustee

For the Respondent: David M. Depp, Staff Appraiser, Cole-Layer-Trumble

### Issue

8. Summary of Petitioner's contentions in support of an alleged error in the assessment:
- a. The Petitioner contends the subject property is over assessed. The Petitioner presented evidence indicating a natural gas pipeline was placed on the land. *Pet'r Ex. 5-6; Modrak testimony.*
  - b. The presence of the pipeline makes a majority of the property unsuitable for development. *Modrak testimony.*
  - c. The property is also part of a wetland area. *Pet'r. Ex. 7-9; Modrak testimony.*
  - d. The property, prior to the pipeline being added, consisted of 2.44 acres of developable land. *Pet'r Ex. 10; Modrak testimony.* The pipeline further reduced the amount of developable land to 2.07 acres of developable land. *Pet'r Ex. 11; Modrak testimony.*
  - e. The presence of the pipeline further reduces the market value of land. According to *Petitioner's Exhibit 11*, a professional appraiser stated the presence of the pipeline would reduce the value of the property by 75%.
9. The Respondent stated that they agreed with the Petitioner that the value of the land should be changed to \$7,000.

### Record

10. The official record for this matter is made up of the following:
- a. The Petition, and all subsequent submissions by either party.
  - b. The tape recording of the hearing labeled BTR# 280.
  - c. Exhibits
    - Petitioner Exhibit 1 – Exhibit cover sheet
    - Petitioner Exhibit 2 – Table of contents for exhibits
    - Petitioner Exhibit 3 – Comparison of 2001 and 2002 assessment
    - Petitioner Exhibit 4A – Property Record Card for 2001
    - Petitioner Exhibit 4B – Notice of change in Assessment for 2002
    - Petitioner Exhibit 4C – Property Record Card for 2002
    - Petitioner Exhibit 5 – Property Plot plan
    - Petitioner Exhibit 6 – Aerial view of property
    - Petitioner Exhibit 7 – Wetland inventory map index
    - Petitioner Exhibit 8 – Lake County soil analysis

Petitioner Exhibit 9 – Lake County flood plain analysis  
Petitioner Exhibit 10 – Description of property  
Petitioner Exhibit 11 – History of pipeline installation  
Petitioner Exhibit 12 – Legal description of 50-foot easement as a result of the pipeline  
Petitioner Exhibit 13 – tax statement, 2001  
Petitioner Exhibit 14 – tax statement, 2002

Respondent Exhibit 2 – 2002 property record card for subject  
Respondent Exhibit 3 – Plat map for subject area

Board Exhibit A – Form 139L  
Board Exhibit B – Notice of Hearing  
Board Exhibit C – Sign in Sheet

d. These Findings and Conclusion.

### Analysis

11. The most applicable laws are:
  - a. A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
  - b. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).
  - c. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
12. The Petitioner requested an Assessed Value of \$7,000 on the Form 139L. After the Petitioner presented his evidence, Respondent agreed the Assessed Value should be changed to \$7,000.
13. The Board accepts the concession by Respondent as an agreement between the parties. The Board’s acceptance of this agreement should not be construed as a determination regarding the propriety of the assessed value agreed to by the parties.

14. There is a change in the assessment as a result of this agreement. The Assessed Value of the land should be changed to \$7,000.

### **Final Determination**

In accordance with the above analysis the Indiana Board of Tax Review now determines that the land value for this parcel should be changed to \$ 7,000 based on the agreement of the parties at the hearing.

ISSUED: \_\_\_\_\_

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Commissioner,  
Indiana Board of Tax Review

### **IMPORTANT NOTICE**

#### **- APPEAL RIGHTS -**

**You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.**